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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON,
AT SPOKANE

CITIES INSURANCE ASSOCIATION
OF WASHINGTON, a Washington
non-profit corporation,

Plaintiff,

vs.

ASSOCIATED ELECTRIC & GAS
INSURANCE SERVICES LIMITED, a
Bermuda corporation

Defendant.

Cause No. 2:16-cv-00134-TOR

**STIPULATED PROTECTIVE
ORDER**

1. INTRODUCTION

This matter will involve the production or disclosure of confidential and privileged defense cost invoicing or communications from the underlying lawsuit. In addition, there may be production or disclosure of other documents that contain confidential, proprietary or privileged information for which special protection

1 may be warranted. Accordingly, the parties hereby stipulate to and petition the
2 Court to enter the following Stipulated Protective Order.

3 **2. “CONFIDENTIAL” MATERIAL.**

4 “Confidential” material shall include the documents so designated as set
5 forth in Section 5 below.
6

7 **3. SCOPE.**

8 The protections conferred by this agreement cover not only confidential
9 material (as defined above), but also (1) any information copied or extracted from
10 confidential material; (2) all copies, excerpts, summaries, or compilations of
11 confidential material; and (3) any testimony, conversations, or presentations by
12 parties or their counsel that might reveal confidential material. However, the
13 protections conferred by this agreement do not cover information that is in the
14 public domain either prior to execution of this agreement, or after the execution
15 of this agreement if the information was released into the public domain in some
16 manner unrelated to this litigation. The protections conferred by this agreement
17 do not cover information that becomes part of the public domain during trial,
18 appeal, or any other disclosure into the public domain permitted by the Court.
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21 **4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL.**

22 4.1. Basic Principles. A receiving party may use confidential material
23 that is disclosed or produced by another party or by a non-party in connection

1 with this case only for prosecuting, defending, or attempting to settle this
2 litigation. Confidential material may be disclosed only to the categories of
3 persons and under the conditions described in this agreement. Confidential
4 material must be stored and maintained by a receiving party at a location and in a
5 secure manner that reasonably ensures that access is limited to the persons
6 authorized under this agreement.
7

8 4.2. Disclosure of “CONFIDENTIAL” Information or Items. Unless
9 otherwise ordered by the court or permitted in writing by the designating party, a
10 receiving party may disclose any confidential material only to:

11 (a) the receiving party’s counsel of record in this action, as well
12 as employees of counsel to whom it is reasonably necessary to disclose the
13 information for this litigation, including other attorneys in the same law firm of
14 counsel of record;
15

16 (b) the officers, directors, and employees (including in-house
17 counsel) of the receiving party to whom disclosure is reasonably necessary for
18 this litigation, unless the parties agree that a particular document or material
19 produced is for Attorney’s Eyes Only and is so designated;
20

21 (c) experts and consultants to whom disclosure is reasonably
22 necessary for this litigation and who have signed the “Acknowledgment and
23 Agreement to Be Bound” (Exhibit A);

1 (d) auditors, regulators, and reinsurers of the receiving party, as
2 well as their employees to whom it is reasonably necessary to disclose the
3 information for this litigation;

4 (e) the court, court personnel, and court reporters and their staff;

5 (f) copy or imaging services retained by counsel to assist in the
6 duplication of confidential material, provided that counsel for the party retaining
7 the copy or imaging service instructs the service not to disclose any confidential
8 material to third parties and to promptly return all originals and copies of any
9 confidential material;
10

11 (g) during their depositions, non-party witnesses in the action to
12 whom disclosure is reasonably necessary and who have signed the
13 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
14 agreed by the designating party or ordered by the court. Pages of transcribed
15 deposition testimony or exhibits to depositions that reveal confidential material
16 must be separately bound by the court reporter and may not be disclosed to
17 anyone except as permitted under this agreement; and
18

19 (h) the author or recipient of a document containing the
20 information or a custodian or other person who otherwise possessed or knew the
21 information.
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1 4.3. Filing Confidential Material. Before filing confidential material or
2 discussing or referencing such material in court filings, the filing party shall
3 confer with the designating party to determine whether the designating party will
4 remove the confidential designation, whether the document can be redacted, or
5 whether a motion to seal or stipulation and proposed order is warranted. The
6 Scheduling Order sets forth standards that will be applied when a party seeks
7 permission from the court to file material under seal. (ECF No. 19 at 4:15 – 5:2)

9 **5. DESIGNATING PROTECTED MATERIAL.**

10 5.1. Manner and Timing of Designations. Disclosure or discovery
11 material that qualifies for protection under this agreement must be clearly so
12 designated before or when the material is disclosed or produced.

13 (a) Information in documentary form (e.g., paper or electronic
14 documents and deposition exhibits, but excluding transcripts of depositions or
15 other pretrial or trial proceedings): the designating party must affix the word
16 “CONFIDENTIAL” to the pages or documents that contains confidential
17 material.
18

19 (b) Testimony given in deposition or in other pretrial or trial
20 proceedings: the parties must identify on the record, during the deposition,
21 hearing, or other proceeding, all protected testimony, without prejudice to their
22 right to so designate other testimony after reviewing the transcript. Any party or
23

1 non-party may, within twenty-eight days after receiving a deposition transcript,
2 designate portions of the transcript, or exhibits thereto, as confidential.

3 (c) Other tangible items: the producing party must affix in a
4 prominent place on the exterior of the container or containers in which the
5 information or item is stored the word "CONFIDENTIAL." If only a portion or
6 portions of the information or item warrant protection, the producing party, to the
7 extent practicable, shall identify the protected portion(s).
8

9 5.2. Inadvertent Failures to Designate. If timely corrected, an inadvertent
10 failure to designate qualified information or items does not, standing alone, waive
11 the designating party's right to secure protection under this agreement for such
12 material. Upon timely correction of a designation, the receiving party must make
13 reasonable efforts to ensure that the material is treated in accordance with the
14 provisions of this agreement.
15

16 5.3. Mistaken Designation. If it comes to a designating party's attention
17 that information or items that it designated for protection do not qualify for
18 protection, the designating party shall promptly notify all other parties that it is
19 withdrawing the mistaken designation.
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1 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS.**

2 6.1. Any party may challenge in court the designation of any particular
3 document or tangible thing as “Confidential” or the types of documents and
4 tangible things listed above as “Confidential.”

5
6 6.2. Timing of Challenges. Any party may challenge a designation of
7 confidentiality at any time. Unless a prompt challenge to a designating party’s
8 confidentiality designation is necessary to avoid foreseeable, substantial
9 unfairness, unnecessary economic burdens, or a significant disruption or delay of
10 the litigation, a party does not waive its right to challenge a confidentiality
11 designation by electing not to mount a challenge promptly after the original
12 designation is disclosed.

13
14 6.3. Meet and Confer. The parties must make every attempt to resolve
15 any dispute regarding confidential designations without court involvement. A
16 good faith effort to confer requires a face-to-face meeting or a telephone
17 conference.

18
19 6.4. Judicial Intervention. If the parties cannot resolve a challenge
20 without court intervention, the parties may contact chambers to schedule a
21 telephonic conference to obtain an expedited ruling per the Scheduling Order.
22 (ECF No. 19 at 5:3-6) As directed by the court following such telephonic
23 conference, the designating party may file and serve a motion to retain

1 confidentiality. All parties shall continue to maintain the material in question as
2 confidential until the court rules on the challenge.

3 **7. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
4 **PRODUCED IN OTHER LITIGATION.**

5 If a party is served with a subpoena or a court order issued in other
6 litigation that compels disclosure of any information or items designated in this
7 action as “CONFIDENTIAL,” that party must:

8 (a) promptly notify the designating party in writing and include a
9 copy of the subpoena or court order;

10 (b) promptly notify in writing the party who caused the subpoena
11 or order to issue in the other litigation that some or all of the material covered by
12 the subpoena or order is subject to this agreement. Such notification shall include
13 a copy of this agreement; and

14 (c) cooperate with respect to all reasonable procedures sought to
15 be pursued by the designating party whose confidential material may be affected.
16

17 **8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL.**

18 If a receiving party learns that, by inadvertence or otherwise, it has
19 disclosed confidential material to any person or in any circumstance not
20 authorized under this agreement, the receiving party must immediately (a) notify
21 in writing the designating party of the unauthorized disclosures, (b) use its best
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1 efforts to retrieve all unauthorized copies of the protected material, (c) inform the
2 person or persons to whom unauthorized disclosures were made of all the terms
3 of this agreement, and (d) request that such person or persons execute the
4 “Acknowledgment and Agreement to Be Bound” that is attached hereto as
5 Exhibit A.
6

7 **9. NON-TERMINATION AND RETURN OF DOCUMENTS.**

8 If requested in writing by any party, within 60 days after the termination of
9 this action, including all appeals, each receiving party must return or destroy all
10 confidential material to the producing party, including all copies, extracts and
11 summaries thereof. Counsel for each party must confirm in writing that the
12 applicable documents have been returned or destroyed before or on the 60 day
13 deadline identified above.
14

15 Notwithstanding this provision, counsel are entitled to retain one archival
16 copy of all documents filed with the court, trial, deposition, and hearing
17 transcripts, correspondence, deposition and trial exhibits, expert reports, attorney
18 work product, and consultant and expert work product, even if such materials
19 contain confidential material.
20

21 The confidentiality obligations imposed by this agreement shall remain in
22 effect until a designating party agrees otherwise in writing or a court orders
23 otherwise.

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 DATED this 13th day of September, 2016.

3 SOHA & LANG, P.S.

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Attorneys for Defendant

19 PURSUANT TO STIPULATION, IT IS SO ORDERED.

20 Dated: October 13, 2016

21 

22 Thomas O. Rice

23 Chief United States District Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of

[print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Eastern District of Washington on in the case of *Cities Insurance Association of Washington v. Associated Electric & Gas Insurance Services Limited*, Case No. 2:16-cv-00134-TOR.

I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

1 Date: _____

2 City and State where sworn and signed: _____

3
4 Printed name: _____

5 Signature: _____